

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish A Framework for Network Architecture Development of Dominant Carrier Networks.

Rulemaking 93-04-003
(Filed April 7, 1993)

Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks.

Investigation 93-04-002
(Filed April 7, 1993)

(Verizon UNE Phase)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION TO COMPEL OF VERIZON CALIFORNIA, INC.**

On September 21, 2004, Verizon California, Inc. (Verizon) filed a motion to compel AT&T Communications of California, Inc. (AT&T) and MCI, Inc. (MCI, formerly WorldCom) (collectively Joint Commenters) to produce information relating to their methods, procedures, guidelines, and other documentation of engineering practices supporting assertions made in Joint Commenters' August 6, 2004 reply comments. Verizon seeks this information to compare to assertions made by Joint Commenters regarding how an efficient telecommunications engineer or company would design a local exchange network. According to Verizon, Joint Commenters have cited to AT&T internal guidelines to support their assumptions. Verizon contends it should be able to test Joint Commenters' assertions that an efficient company can overcome various network constraints by analyzing Joint Commenters' own internal engineering guidelines and documentation.

Joint Commenters respond that the information Verizon seeks, essentially AT&T's and MCI's current internal engineering information, is irrelevant because Joint Commenters' networks are not the focus of this proceeding and they do not offer unbundled network elements (UNEs) through an ubiquitous local exchange network, as does Verizon. Although Verizon alleges AT&T engineering guidelines are relied on to support Joint Commenters' filings, particularly inputs to the HM 5.3 model, Joint Commenters maintain that all support for HM 5.3 was filed in Joint Commenters' opening filings. Specific AT&T internal guidelines and other documents that Verizon cites are either publicly available or have already been provided to Verizon. Joint Commenters maintain that their network costs and operations are not a proper subject of discovery and the information Verizon seeks is not relevant to reply testimony because Joint Commenters did not rely on their own internal guidelines in reply testimony.

Verizon's motion is denied because the information requested is not relevant to this proceeding, and the request is overly broad and unduly burdensome. Any internal guidelines or engineering documentation that Joint Commenters currently use are not related to a UNE network because Joint Commenters do not own or operate one, nor do they offer local exchange service on the same scale as Verizon. Furthermore, Joint Commenters maintain that their internal guidelines and engineering documents were not used as support for modeling input and engineering decisions in HM 5.3. Joint Commenters need only provide internal guidelines or other engineering documentation of AT&T or MCI if they were relied on in HM 5.3 or in testimony. Joint Commenters have represented to the Administrative Law Judge that they have already done this or the information is publicly available. If Joint Commenters

have not sufficiently supported their engineering and input choices in HM 5.3 by reference to appropriate engineering guidelines, this will become apparent through reply and rebuttal comments. Nevertheless, Joint Commenters bear the burden of supporting their engineering and input choices through adequate citation and support. In reply and rebuttal comments, Verizon has the opportunity to show, through use of its own engineering guidelines and documentation, that Joint Commenters' assertions are inaccurate.

Therefore, **IT IS RULED** that Verizon California, Inc.'s September 21, 2004 motion to compel discovery is denied.

Dated October 27, 2004, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have, by electronic mail, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Compel of Verizon California, Inc. on all parties of record in this proceeding or their attorneys of record.

Dated October 27, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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